

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2133.04
COMPLAINT INVESTIGATOR:	Joe Bear
DATE OF COMPLAINT:	May 29, 2004
DATE OF REPORT:	June 15, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	September 8, 2004

COMPLAINT ISSUES:

Whether Wabash City Schools and Wabash-Miami Programs for Exceptional Children violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by failing to implement the student's behavioral intervention plan (BIP).*

FINDINGS OF FACT:

1. The Student is 15 years old and attends the local middle school. The Student is eligible for special education as a student with a learning disability.
2. A private evaluation on October 20 and 26, 2001, determined the Student to be significantly below his chronological age in socialization skills. Since December 2001, the Complainant has requested that the Student participate in a social skills group, as a means of increasing these skills. The Case Conference/Annual Case Review Summary (CCC report) of December 10, 2001, first mentions the social skills group in the discussion summary. The Student's participation is also mentioned in subsequent CCC reports: in the report of October 21, 2002, which states that the Student "will be enrolled in the social skills group" later that semester, and in the report of February 18, 2004, which states that the Student "will attend [the guidance counselor's] social skills group beginning 2/18/04 at the parents' request." The Complainant has never been notified of the Student's enrollment in the group, nor has the Student participated in the group.
3. Although information about the social skills group is contained in the CCC reports, this information is not contained in the IEPs. The social skills group is a general education program operated by the guidance counselor's office.

CONCLUSIONS:

1. Findings of Fact #2 and #3 indicate that, since the CCC reports say that the Student "will" participate in the group but the plan is not clarified in the IEPs, the IEPs lack sufficient clarity for the Complainant and school personnel to understand what services the Student is to receive. Where an ambiguity exists in the IEP, the ambiguity will be construed against the public agency that is responsible for its development and implementation. IEPs and case conference reports must have sufficient clarity so that parents and school personnel know what services a student is to receive. Therefore, a violation of 511 IAC 7-27-7(a) has been found.

The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

Wabash City Schools and Wabash-Miami Programs for Exceptional Children shall:

1. convene the case conference committee to discuss the Student's participation in a social skills group or the Student's receipt of similar services to enhance socialization skills. Clarify the nature of the services and include them in the IEP. Include information about the frequency and duration of the services, as well as the location. **Submit the CCC report and IEP with this information to the Division by September 10, 2004.**

2.